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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,687	12/21/2001	Herbert V. Joiner	NA11P064/01.306.01	3319

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EXAMINER

WINDER, PATRICE L

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 12/23/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,687

Applicant(s)

JOINER ET AL.

Examiner

Patrice Winder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3. 6) ☐ Other: _____

Request for Information

1. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.
2. The information is required to identify products and services embodying the disclosed subject matter of claims 1-29 and identify the properties of similar products and services found in the prior art.
3. In response to this requirement, please provide the names of any products or services that have incorporated the claimed subject matter.
4. In response to this requirement, please provide a copy of the rigid comparison of the alleged infringing device and method identified in the petition filed 2 June 2003 (Paper #5) along with any supporting documents concerning place and date(s) of use and/or sale of the alleged infringing device.
5. In response to this requirement, please state the specific improvements of the claimed subject matter in claims 1-29 over the disclosed prior art and indicate the specific elements in the claimed subject matter that provide those improvements. For those claims expressed as means or steps plus function, please provide the specific page and line numbers within the disclosure which describe the claimed structure and acts.
6. The fee and certification requirements of 37 C.F.R. § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those

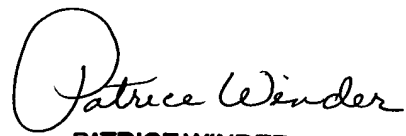
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documents within the scope of this requirement under 37 C.F.R. § 1.105 that are included in the applicant's first complete communication responding to this requirement.

7. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. § 1.105 are subject to the fee and certification requirements of 37 C.F.R. § 1.97.

8. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

9. This requirement is subject to the provisions of 37 C.F.R. §§ 1.134, 1.135 and 1.136 and has a shortened statutory period of three (3) months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).


PATRICE WINDER
PRIMARY EXAMINER



Information Disclosure Statement

10. The information disclosure statement filed February 12, 2002 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no explanation of the relevance to the present applicant has been provided. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Fletcher et al., USPN 6,108,782 (hereafter referred to as Fletcher).

13. Regarding claim 1, Fletcher taught a method for reporting on network analysis (abstract), comprising:

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(a) collecting network traffic information utilizing a plurality of agents installed on computers distributed among a plurality of zones (column 6, lines 25-31, column 20, lines 1-18);

(b) receiving the network traffic information collected from the agents associated with each zone at a separate controller (column 6, lines 12-20); and

(c) transmitting a report on the network traffic information from the controller to a computer coupled to the network (column 9, lines 33-43, column 18, lines 1-8).

14. Regarding dependent claim 2, Fletcher taught the report is capable of being displayed on the computer utilizing a network browser (column 17, lines 8-14).

15. Regarding dependent claim 3, Fletcher taught the network includes the Internet (column 17, lines 8-14).

16. Regarding dependent claim 4, Fletcher taught the method further comprising receiving a request at one of the controllers for a report on the network traffic information corresponding to the zone associated with the controller (column 18, lines 1-8).

17. Regarding dependent claim 5, Fletcher taught the report is transmitted in response to the request (column 18, lines 1-8).

18. Regarding dependent claim 6, Fletcher taught the report includes a network analyzer report (column 18, lines 1-8).

19. Regarding dependent claim 7, Fletcher taught the report includes a plurality of objects (column 3, lines 47-49, column 9, lines 33-43).

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20. Regarding dependent claim 8, Fletcher taught the objects are in a tree representation (tree representation = MIB, column 3, lines 47-49, column 9, lines 33-43). The language of claims 9-24 is substantially the same as previously rejected claims 1-8. Therefore, claims 9-24 are rejected on the same rationale as previously rejected claims 1-8, above.

21. Regarding claim 25, Fletcher taught a method for reporting on network analysis (abstract), comprising:

- (a) collecting network traffic information utilizing a plurality of agents installed on computers distributed among a plurality of zones (column 6, lines 25-31, column 20, lines 1-18);
- (b) receiving the network traffic information collected from the agents associated with each zone at a separate controller (column 6, lines 12-20);
- (c) receiving a request at one of the controllers for a report on the network traffic information corresponding to the zone associated with the controller (column 18, lines 1-8);
- (d) transmitting a report on the network traffic information from the controller to a computer coupled to the network (column 9, lines 33-43, column 18, lines 1-8);
- (e) wherein the report is capable of being displayed on the computer utilizing a network browser (column 17, lines 844).

22. Regarding claim 26, Fletcher taught a method for reporting on network analysis (abstract), comprising:

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collecting network traffic information utilizing a plurality of information collectors installed on computers distributed among a plurality of zones (column 6, lines 25-3 1, column 20, lines 1- 18);

receiving the network traffic information collected from the information controllers associated with each zone at an information collector manager (column 6, lines 12-20); and

generating a report on the network traffic information associated with a selected one of the zones (column 9, lines 33-43, column 18, lines 1-8).

23. Regarding claim 28, Fletcher taught a computer program product for reporting on network analysis (abstract), comprising:

computer code for collecting network traffic information utilizing a plurality of information collectors installed on computers distributed among a plurality of zones (column 6, lines 25-3 1, column 20, lines 1- 18);

computer code for receiving the network traffic information collected from the information controllers associated with each zone at an information collector manager (column 6, lines 12-20); and

computer code for generating a report on the network traffic information associated with a selected one of the zones (column 9, lines 33-43, column 18, lines 1-8).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

26. Claims 27 and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher in view of Sharon et al., USPN 6,137,782 (hereafter referred to as Sharon).

27. Regarding dependent claims 27 and 29, Fletcher does not specifically teach the information relates to wireless network traffic. However, Sharon taught the information relates to wireless network traffic (column 1, lines 23-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Sharon's wireless network traffic in Fletcher's system for monitoring network traffic would have expanded system flexibility. The motivation would have been to provide Fletcher's service in networks of diverse communication media.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
29. MacFarlane et al., USPN 6,516,348 B1: taught collecting and predicting capacity information for composite network resource formed by combining ports of an access server and/or links of wide area network;
30. Richardson et al., USPN 6,271,845 B1: taught a method and structure for dynamically drilling down through a health monitoring map to determine the health status and cause of health problems associated with network objects of a managed network environment;
31. Babu et al., USPN 6,122,639: taught network device information collections and change detection;
32. Maccabee et al., USPN 6,108,700: taught an application end-to-end response time measurement and decomposition; and
33. Stilwell et al., USPN 5,907,696: taught a network device simulator.
34. This Office action has an attached requirement for information under 37 C.F.R. 1.105. A complete response to this Office action must include a computer response to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.
35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is (703) 305-

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3938. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam, can be reached on (703) 308-6662. The fax phone number(s) for this Group are official (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


PATRICE WINDER
PRIMARY EXAMINER